

October 4, 2005

October Fourth

20-----05

The regular October Meeting of City Council was held on the above date at 7:00 p.m. in the Council Chambers located on the Fourth Floor of the Municipal Building. The following Council Members were present: Ruby B. Archie, P. A. "Pete" Castiglione, Jr., E. Stokes Daniels, Jr., Mayor John C. Hamlin, T. David Luther, T. Wayne Oakes, Sherman M. Saunders, H. Phillip Smith and Vice-Mayor R. Wayne Williams, Jr. (9).

Administrative Staff Members present were: City Manager Jerry L. Gwaltney, Deputy City Manager M. Lyle Lacy, III, Assistant City Manager for Utilities Joseph C. King, Finance Director Barbara A. Dameron, City Attorney W. Clarke Whitfield, Jr., and Clerk of the Council Annette Y. Crane, CMC.

Other Staff members present were Transportation Services Director Marc Adelman, Chief of Police Philip Broadfoot, Human Services Director Gwendolyn Edwards, Community Development Director Jerry Fischer, Planning Director Ken Gillie, and Parks, Recreation and Tourism Director John Gilstrap.

Mayor Hamlin presided.

INVOCATION AND PLEDGE OF ALLEGIANCE

Vice-Mayor Wayne Williams introduced Kimberly Ricketts, a Member of Abundant Life Outreach Church, who offered the Invocation. The Pledge of Allegiance to the Flag followed.

ANNOUNCEMENTS AND SPECIAL RECOGNITION

City Manager Gwaltney presented a Certificate of Retirement to former Parks, Recreation, and Tourism Director John Gilstrap. Mr. Gilstrap retired after 30 years of service with the City on October 1, 2005. Mr. Gwaltney expressed sincere appreciation to Mr. Gilstrap for the excellent foundation he had left in the Parks and Recreation Department and for every contribution he had made to the citizens of Danville.

Mr. Gilstrap said it had been a great thirty years and thanked Council Members for their wholehearted support over the years. He said he was retiring to pursue another career.

Several Council Members shared personal memories of Mr. Gilstrap and wished him well in his new endeavors.

City Manager Gwaltney introduced the new Parks, Recreation, and Tourism Director Bill Sgrinia. Mr. Sgrinia is a graduate of Radford University with 15 years experience in his profession. Mr. Gwaltney said Bill comes from the Montgomery County Parks and

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Recreation Department and will carry on the tradition the City is accustomed to.

Mr. Sgrinia said it was an honor and pleasure to be in Danville and looks forward to getting settled. He hopes to continue in the tradition of John Gilstrap.

Mayor Hamlin welcomed Mr. Sgrinia to Danville and said Council looked forward to working with him.

COMMUNICATIONS FROM VISITORS

Carlton Hemingway, a Holbrook Avenue resident, appeared on behalf of the Dan River Alliance for Arts and Culture. Mr. Hemingway stated an event called "Art Walk" is being planned for October 23 from 1:00 P.M. to 4:30 P.M. at the "Crossing at the Dan." He asked for everyone's support for this initiative. He said the event had the potential to have a positive impact on local tourism and the local economy. Mr. Hemingway felt "Art Walk" would be the most significant arts awareness event in the history of Danville and said the Stratford Inn Ramada had donated its hospitality suite for registration and volunteer purposes. He invited the citizens of Danville to attend the event.

MINUTES

Upon Motion by Council Member Daniels and second by Council Member Smith, Minutes of the September 20, 2005 Council Meeting were approved as presented. Draft copies had been submitted to Council Members prior to the Meeting.

HEARING-BUDGET ADOPTIONS - FISCAL YEAR 2005-2006

Mayor Hamlin announced the following budget amendments had been previously discussed by City Council and would be further considered in the Public Hearing. There would be no separate discussion after the Public Hearing had been closed and the items would be enacted by one Motion. If a Council Member or a citizen desires discussion, the item(s) would be removed from the consent process and considered separately.

Mayor Hamlin opened the floor to a Public Hearing to consider amendments to the Fiscal Year 2005-2006 Budget Appropriation Ordinance. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 27, 2005. No one present desired to be heard and the Public Hearing was closed.

Upon Motion by Council Member Smith and second by Council Member Archie, Ordinance No. 2005-09.14 presented by its First Reading on September 20, 2005 amending the Fiscal Year 2005-2006 Budget Appropriation Ordinance to provide for State Department of Aviation Maintenance Grant Funds for Maintenance of certain Airport properties, materials and equipment in the amount of \$100,000 and for the local share in the amount of \$37,906 for a

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total appropriation of \$137,906 and appropriating same was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

Upon Motion by Council Member Smith and second by Council Member Archie, Ordinance No. 2005-09.15 presented by its First Reading on September 20, 2005 amending the Fiscal Year 2005-2006 Budget Appropriation Ordinance by anticipating funds from the Virginia Department of Social Services in the amount of \$9,307 for a Child Day Care Quality Initiative Program was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

Upon Motion by Council Member Smith and second by Council Member Archie, Ordinance No. 2005-09.16 presented by its First Reading on September 20, 2005 amending the Fiscal Year 2005-2006 Budget Appropriation Ordinance by increasing revenue to anticipate the receipt of funds from the U. S. Office of Justice Programs Fiscal Year 2005 Edward Byrne Memorial Justice Assistant Grant Program for one (1) Technology Grant in the amount of \$54,051 was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

Upon Motion by Council Member Smith and second by Council Member Archie, Ordinance No. 2005-209.27 presented by its First Reading on September 20, 2005 amending the Fiscal Year 2005-2006 Budget Appropriation Ordinance by increasing revenue to anticipate the receipt of funds from the Virginia Department of Emergency Management (VDEM) for the development of a pilot program to identify critical infrastructure, in the amount of \$500,000 and appropriating same was adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

Mayor Hamlin announced the end of the Consent Process.

HEARING - MODIFY PROFFER OF CONDITIONS AT 733 HOLBROOK AVENUE

Mayor Hamlin opened the floor for a Public Hearing to consider a request to modify a proffer of conditions to allow for the sale

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of alcohol on property located at 733 Holbrook Drive. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 20 and 27, 2005.

Attorney Trevor Moe appeared before Council on behalf of the applicant, Joe B. Davis of Davis and Davis Rentals, and Yvonne Wimbush, owner of Ethel Lee's Grocery located at 733 Holbrook Avenue. Mr. Moe advised that in 2004, the building was zoned OT-R Old Town Residential. Property owner Joe B. Davis appeared before the Planning Commission several times in an attempt to have the property rezoned to N-C Neighborhood Commercial. In the summer of 2004, the rezoning was approved for "Conditional" Neighborhood Commercial, one of the conditions being no alcohol would be sold on the premises. Mr. Moe further advised that Ms. Wimbush had made arrangements with Davis and Davis Rentals to open a grocery store at the location. Mr. Moe stated Ms. Wimbush was unaware alcohol could not be sold at the location and applied to the ABC Board for a license to do so. When a neighbor called the Planning office to complain, staff immediately notified the ABC Board of the City's opposition to the sale of alcohol at the location and the license was denied.

Mr. Moe advised the store was in bad shape financially because other stores in the area sold alcohol and Ms. Wimbush felt she was losing business due to the proffer.

Mr. Moe stated he understood the City Planning Commission opposed dropping the proffer because it would affect the character and safety of the neighborhood. He said he did not see how this was possible since historically there were many family-owned stores in the area that sold alcohol.

Mr. Moe advised another reason the Planning Commission opposed the reversal was because other types of businesses could locate on the property, such as a bank or a bed and breakfast. He asked Council to keep in mind the neighborhood and the types of businesses that would locate there. Mr. Moe felt no investor would come in and sink a lot of money into the property for another use.

Mr. Moe distributed pictures to Council Members of other stores in the area. One picture was of a business seven (7) lots away from Ethel Lee's that sold alcohol. Mr. Moe said for Ethel Lee's to compete with other convenience stores in the area, the off-premise sale of alcohol should be allowed. If not, the store would have to close and several employees would lose jobs.

No one further desired to be heard and the Public Hearing was closed.

Council Member Daniels moved adoption of a Resolution entitled:

RESOLUTION NO. 2005-10.01

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A RESOLUTION MAINTAINING THE "CONDITIONAL" N-C NEIGHBORHOOD COMMERCIAL DISTRICT AT 733 HOLBROOK AS APPROVED BY ORDINANCE NUMBER 2004-08.02.

Council Member Castiglione seconded the Motion.

In response to Council Member Smith, Planning Director Ken Gillie said the no sale of alcohol was originally proffered due to opposition from neighbors. Mr. Gillie offered the businesses that presently sell alcohol are legal non-conforming in a single-family residential district. Should the properties become vacant and not be in use for two years, the owners would not be able to operate a commercial enterprise at the locations. The businesses were in place prior to the adoption of the new zoning code in 2004.

Mr. Smith said the issue at hand seems to be a matter of inequity among the businesses in the area. Some are able to sell alcohol while Ms. Wimbush is not currently able to do so.

Council Member Luther said while reading over the agenda materials, he found that most of those who opposed the sale of alcohol did not live close to the location. He said selling alcohol off-premises would not increase nor decrease alcohol consumption. He said the proffer needed to be looked at in the light of reality.

Council Member Castiglione said Midtown Market located on Chambers Street, and situated in a residential area, had the option of selling alcohol. Mr. Castiglione said the congregating of young people in the area bothered him much more than the sale of alcohol. He agreed with Mr. Luther and Mr. Smith relating to the matter of equitability.

In response to Vice-Mayor Williams, Mr. Gillie said his office had received calls about safety issues. He said individuals would call and voice opposition, but would not return the form sent to the nearby residents for receiving formal input.

Council Member Daniels voiced opposition to removing the proffer, stating that was what the Planning Commission approved and felt it should stand as is.

Council Member Saunders said he would base his vote on telephone calls he had received. He said citizens were concerned about the sale of alcohol in that particular neighborhood.

In response to Mrs. Archie, Mr. Gillie said he received calls in opposition, but citizens were unwilling to send in the form that is formally required. Mrs. Archie wondered if the citizens were more concerned about the congregating than the sale of alcohol. Mr. Gillie said there was no way to know that.

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Mayor Hamlin stated he would **abstain** from voting on the issue due to a conflict of interest because the company he works for and he personally would benefit from the sale of alcoholic beverages.

The Motion **failed** by the following vote:

VOTE: 4-4
AYE: Daniels, Oakes, Saunders, and Williams (4)
NAY: Archie, Castiglione, Luther, and Smith (4)
ABSTAIN Hamlin (1).

Council Member Luther moved adoption of an Ordinance entitled:

ORDINANCE NO. 2005-10.01

AN ORDINANCE AMENDING CONDITIONS PREVIOUSLY PROFFERED BY ORDINANCE NUMBER 2004-08.02 TO ALLOW FOR THE SALE OF ALCOHOL AT 733 HOLBROOK AVENUE.

The Motion was seconded by Council Member Archie and adopted by the following vote:

VOTE: 6-2
AYE: Archie, Castiglione, Luther, Oakes, Saunders, and Smith (6)
NAY: Daniels, and Williams (2)
ABSTAIN: Hamlin (1).

HEARING-SPECIAL USE PERMIT-DAY CARE CENTER-1013 WESTOVER DRIVE

Mayor Hamlin opened the floor for a Public Hearing to consider a request for a Special Use Permit to allow for the operation of a Child Day Care Center. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 20 and 27, 2005.

Attorney Lee Yancey appeared on behalf of the applicant, Fairview Methodist Church. Mr. Yancey said the church desired to expand its hours of operation for the day care center. Presently, the center operates on a part-time basis.

No one present desired to be heard and the Public Hearing was closed.

Council Member Archie moved adoption of an Ordinance entitled:

ORDINANCE NO. 2005-10.01

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR THE OPERATION OF A CHILD DAY CARE CENTER IN ACCORDANCE WITH ARTICLE 3.E (C) (7) OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 1013 WESTOVER DRIVE.

The Motion was seconded by Vice-Mayor Williams and adopted by the following vote:

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VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

HEARING - SPECIAL USE PERMIT-WAIVER OF YARD REQUIREMENTS

Mayor Hamlin opened the floor for a Public Hearing to consider a request for a Special Use Permit to allow for a Waiver of Yard requirements at 121 Maplewood Street. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 20 and 27, 2005. No one present desired to be heard and the Public Hearing was closed.

Council Member Archie moved adoption of an Ordinance entitled:

ORDINANCE NO. 2005-10.02

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO ALLOW FOR A WAIVER OF YARD REQUIREMENTS IN ACCORDANCE WITH ARTICLE 3.M (C) (21) OF THE CODE OF THE CITY OF DANVILLE, VIRGINIA, 1986, AS AMENDED, AT 121 MAPLEWOOD STREET.

The Motion was seconded by Council Member Luther and adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

HEARING - AMEND 2020 LAND USE MAP - 3 PARK AVENUE EXTENSION

Mayor Hamlin opened the floor for a Public Hearing to consider amending the 2020 Land Use Map for property located at 3 Park Avenue Extension. The applicant wishes to convert a single family dwelling into a real estate office. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 20 and 27, 2005.

Alfrieta Reaves, on behalf of applicant Charlie Reaves, appeared to answer questions from Council Members and citizens.

No one present desired to be heard and the Public Hearing was closed.

Council Member Archie moved adoption of an Ordinance entitled:

ORDINANCE NO. 2005-10.03

AN ORDINANCE AMENDING THE YEAR 2020 LAND USE MAP FROM URBAN SINGLE FAMILY TO COMMUNITY SERVICE AND REZONING FROM OT-R OLD TOWN RESIDENTIAL DISTRICT TO "CONDITIONAL" HR-C HIGHWAY RETAIL COMMERCIAL DISTRICT, 3 PARK AVENUE EXTENSION.

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Council Member Castiglione seconded the Motion:

Council Member Daniels said Park Avenue Extension was a dead-end street and a quiet one and felt to allow the rezoning may disturb the peace. Mr. Daniels also felt to rezone from residential to commercial in this area would be spot zoning. Mr. Gillie said this was not necessarily spot zoning. There is highway retail to the north and to the east of the property so the rezoning could be classified as a boundary adjustment. Mr. Gillie said it would be considered spot zoning when one property owner was given conditions that were not generally available in the neighborhood.

Council Member Luther disagreed that it was spot zoning. He said there were businesses all around the proposed real estate office.

In response to Council Member Smith, Mr. Gillie said if it had been zoned N-C Neighborhood Commercial, it could have been considered spot zoning since there was no N-C zoning around the property in question.

Mr. Smith expressed concerned about the location of the proposed office. He said the way the intersection was constructed, Park Avenue Extension did not go in and out the normal way to Main Street. Mr. Smith felt it could be costly to the City at some point in time by having to reconfigure the intersection and install a stoplight.

In response to Council Member Oakes, Mr. Gillie said there was adequate space in back of the property for parking.

The Ordinance was adopted by the following vote:

VOTE: 5-4
AYE: Archie, Castiglione, Hamlin, Luther, and Saunders (5)
NAY: Daniels, Oakes, Smith, and Williams (4).

HEARING-AMEND CITY CODE SECTION D-ARTICLE 3.S-AIRPORT OVERLAY

Mayor Hamlin opened the floor for a Public Hearing to consider amending Section D of the Danville City Code relating to the Airport Overlay District. Notice of the Public Hearing had been duly published in the Danville Register and Bee on September 20 and 27, 2005. No one present desired to be heard and the Public Hearing was closed.

Vice-Mayor Williams moved adoption of an Ordinance entitled:

ORDINANCE NO. 2005-10.04

AN ORDINANCE AMENDING AND REORDAINING SECTION D OF ARTICLE 3.S ENTITLED "A-O AIRPORT OVERLAY DISTRICT," OF CHAPTER 41 ENTITLED "ZONING ORDINANCE" OF THE DANVILLE CITY CODE TO PROHIBIT CONSTRUCTION IN THE RUNWAY PROTECTION ZONE (RPZ).

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The Motion was seconded by Council Member Oakes and adopted by the following vote:

VOTE: 9-0
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Saunders, Smith, and Williams (9)
NAY: None (0).

BUDGET AMENDMENT - FY 2005-2006 - AVIATION GRANT - AIRPORT

Upon Motion by Council Member Daniels and second by Council Member Archie, an Ordinance entitled:

ORDINANCE NO. 2005-10.05

AN ORDINANCE AMENDING THE FISCAL YEAR 2005-2006 BUDGET APPROPRIATION ORDINANCE TO PROVIDE FOR STATE AND FEDERAL GRANT FUNDS FOR THE PREPARATION OF A MASTER PLAN UPDATE FOR THE DANVILLE REGIONAL AIRPORT IN THE AMOUNT OF \$120,363 AND FOR THE LOCAL SHARE IN THE AMOUNT OF \$2,457 FOR A TOTAL APPROPRIATION OF \$122,820

was presented by its First Reading, as required by City Charter, to lie over before final adoption.

BUDGET AMENDMENT-FY 2005-2006 - LITTER CONTROL & RECYCLING GRANT

Upon Motion by Council Member Castiglione and second by Council Member Archie, an Ordinance entitled:

ORDINANCE NO. 2005-10.06

AN ORDINANCE AMENDING THE FISCAL YEAR 2005-2006 BUDGET APPROPRIATION ORDINANCE TO ANTICIPATE GRANT FUNDS FROM THE COMMONWEALTH OF VIRGINIA FOR LITTER CONTROL AND RECYCLING EFFORTS IN THE AMOUNT OF \$11,007 AND APPROPRIATING THE SAME

was presented by its First Reading, as required by City Charter, to lie over before final adoption.

COMMUNICATIONS

There were no communications from the City Manager, Deputy City Manager, City Attorney and City Clerk.

ROLL CALL

Council Member Archie thanked Fire Chief B. G. Lewis for supplying Council Members with a hot mat in their Agenda packets.

Council Member Daniels said he recently visited the Airport and stated he was very impressed with what the Airport Maintenance staff has to do to keep the Airport grounds clean and neat. He thanked them for taking time to show him around the Airport and the operations there.

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Council Member Luther commented on the loitering on Holbrook Avenue and Stokes Street. He said he hoped the situation would be looked at by the Police Department to see if illegal activity was taking place there.

Mr. Luther said the new number for reporting power outages is a great addition. He said the device is computerized, but there is still great service.

Council Member Saunders welcomed Mr. Sgrinia to the City's employee.

Mr. Saunders recalled he had mentioned on roll call at recent council meetings about giving City employees the Friday after Thanksgiving as a holiday. He said employees were not given a salary increase this year and were working very hard to get through the tough times. Mr. Saunders felt some type of recognition should be given.

Mr. Saunders **moved** the City of Danville allow employees to take the Friday after Thanksgiving off as a way of showing appreciation for their work and service.

Mayor Hamlin said he would like to discuss the matter further during the Work Session on October 18.

Mr. Smith seconded the Motion.

Dr. Williams felt it was a great idea, but would like to know what the cost would be, if the extra holiday is a one-time day off or if the holiday would be a permanent one. Dr. Williams said he would like to consider the issue as soon as possible, since Thanksgiving is just a few weeks away.

Council Member Luther said he liked the idea, but would like further discussion to determine if it would be a one-time day off. He said if it had been on the agenda with adequate discussion, he would have voted for it.

Council Member Archie said she would like to see that day off, but would like to consider extended time at Christmas as well. Mrs. Archie said she would like to discuss it before voting.

Council Member Castiglione moved to **table** the matter until the October 18 Council Work Session.

Vice-Mayor Williams seconded the Motion.

Council Member Smith requested that a summary and recommendation from City staff be available for Council Members for the Work Session discussion. He also requested that Christmas time off and the cost for both holidays be included in the recommendation.

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Council Member Oakes said he would also like to address Central Services during the discussions. He said the holiday was a good idea and it needed to be made plain whether or not this was a one-time holiday or a permanent one.

The Motion to **table** the matter until the October 18 Work Session was adopted by the following vote:

VOTE: 8-1
AYE: Archie, Castiglione, Daniels, Hamlin, Luther, Oakes,
Smith, and Williams (8)
NAY: Saunders (1).

The Meeting adjourned at 8:38 P.M.

MAYOR

CLERK